

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GETTY IMAGES, INC., and GETTY  
IMAGES (US), INC.,

Petitioners,

v.

CAR CULTURE, INC., and  
AUTOMOBILIA II, LLC,

Respondents.

CASE NO. C22-886 MJP

ORDER DENYING MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Petitioners' Motion for Reconsideration. (Dkt. No. 29.) Having considered the Motion and all supporting materials, the Court DENIES the Motion.

Invoking Rule 60(a), Petitioners first ask that the Court to correct a possible clerical error in the judgment, which noted the dismissal of their Petition to Compel Arbitration with prejudice. Petitioners alternatively ask the Court to reconsider its entry of judgment with prejudice under Local Rule 7(h).

1 Under Rule 60(a), the court may “correct a clerical mistake” found in a judgment. And  
2 under the Local Rules, “[m]otions for reconsideration are disfavored.” Local Civil Rule 7(h).  
3 “The court will ordinarily deny such motions in the absence of a showing of manifest error in the  
4 prior ruling or a showing of new facts or legal authority which could not have been brought to its  
5 attention earlier with reasonable diligence.” Id.

6 Petitioners have not identified a clerical error in the judgment that was entered. It was and  
7 continues to be the Court’s intent that its dismissal of Petitioners’ Petition is with prejudice. And  
8 Petitioners have not identified any manifest error in this decision. Consistent with 9 U.S.C. § 4,  
9 the Court considered whether Petitioners had demonstrated an applicable arbitration agreement  
10 binding the Respondents. The Court applied a summary judgment standard, because the Court  
11 was asked to make a “summary disposition of the issue” of whether Automobilia II, LLC’s  
12 claims were subject to the arbitration agreement on which Petitioners relied. See Hansen v. LMB  
13 Mortg. Servs., Inc., 1 F.4th 667, 670 (9th Cir. 2021) (noting that a summary judgment standard  
14 applies to determining whether a party is bound by an arbitration agreement). The Court’s Order  
15 found that Petitioners had failed to meet their burden to show that Automobilia’s claims were  
16 subject to arbitration. The Court found no dispute of fact about “the making of the arbitration  
17 agreement or the failure, neglect, or refusal to perform the same,” which meant there was no  
18 need to “proceed summarily to the trial thereof.” 9 U.S.C. § 4. This was a final decision on the  
19 merits of the claim. And given the absence of any genuine issue of material fact in dispute (or  
20 request from Petitioners to conduct discovery or proceed to trial), the Court’s denial did not leave  
21 open the opportunity to make further factual development. Dismissal with prejudice was  
22 appropriate in this scenario. This renders the primary case on which Petitioners rely inapposite,  
23 because the parties “stipulated to the existence of a genuine issue of material fact concerning  
24

1 whether [a plaintiff] assented to the arbitration clause,” thereby making a trial under 9 U.S.C. § 4  
2 appropriate. Kwan v. Clearwire Corp., No. C09-1392-JLR, 2012 WL 32380, at \*10 (W.D. Wash.  
3 Jan. 3, 2012). Here, the Court found no such dispute of fact. While Petitioners may lament the  
4 lack of evidence needed to carry their burden, they chose to file the petition without conducting  
5 discovery and without demanding a trial before this Court. This does not show manifest error in  
6 the Court’s decision. The Court has also considered the other two unpublished district court  
7 decisions on which Petitioners rely, and finds that they do not support the broad proposition  
8 Petitioners present or that the Court’s dismissal with prejudice on the unique facts presented was  
9 manifest error. The Court DENIES the Motion for Reconsideration.

10 The clerk is ordered to provide copies of this order to all counsel.

11 Dated December 7, 2022.

12 

13 Marsha J. Pechman  
14 United States Senior District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24